

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/23/2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MD NURAZZAMAN, on behalf of himself and
others similarly situated,

Plaintiff,

-against-

TMS FOOD & CATERING, INC. d/b/a SUBWAY
RESTAURANTS and MOHAMMED SALAM,

Defendants.

16-CV-8294 (NSR)

ORDER OF DISMISSAL

NELSON S. ROMÁN, United States District Judge:

Plaintiff MD Nurazzaman (“Plaintiff”) commenced this action on October 24, 2016, alleging that Defendants TMS Food & Catering, Inc., d/b/a Subway Restaurants, and Mohammed Salam (together, the “Defendants”) are liable for violations of the Fair Labor Standards Act and New York Labor Law. (*See* Complaint, ECF No. 1.) Electronic summonses were issued that same day. (ECF Nos. 5 & 6.) On November 10, 2016, summons was returned executed as to Defendant Salam (ECF No. 7); no summons was returned as to Defendant TMS Food & Catering. The case has been inactive since that time.

On April 1, 2020 the Court issued an Order to Show Cause (“OSC”) why this action should not be dismissed for want of prosecution. (ECF No. 8.) In the OSC, the Court delineated Plaintiff’s failure to prosecute his claims, including Plaintiff’s failure to advance the action for over three years. (*Id.*) Plaintiff was granted until May 18, 2020, to demonstrate to the Court that he had not abandoned his claims and was taking diligent steps to prosecute them. (*Id.*) Plaintiff has failed to communicate with the Court or otherwise respond to the OSC. Accordingly, due to Plaintiff’s failure to prosecute this action, the action is dismissed pursuant to Fed R. Civ. P. 41(b).

The Clerk of Court is respectfully directed to terminate this action.

Dated: October 23, 2020
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge